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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/381,696	09/23/1999	Jan-Eric Callin	1677/00132	4303

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EXAMINER

GREENE, DANIEL LAWSON

ART UNIT	PAPER NUMBER
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3663

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/381,696

Applicant(s)

CALLIN ET AL.

Examiner

Daniel L. Greene Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/12/05 has NOT been entered per Applicant's request (See item 2a of RCE). Applicant's submission filed on 11/4/05 HAS been entered.

2. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

Specification

3. The disclosure is objected to because of the following informalities: Page 9 line 4 states that the coating is item 21, however item 21 is previously and subsequently disclosed as "a passage" and item 28 is disclosed as the coating (see page 9 line 23).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. **Claims 1 and 4-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains**

subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

a. The limitation “essentially common cylinder” in claim 1 was not described in the specification in such a way as to convey exactly what an “essentially common cylinder” is or means. Although the specification states that the walls form “an essentially common cylinder” on, for example, page 3 line 11, it is not seen wherein the metes and bounds of the term “common” are set forth. It is considered that what is “common” today will not be “common” in the future. That is, one interpretation of the word “common” is that the cylinder is commonplace, i.e. that everybody knows this is “the usual thing”. Yet another definition of the term “common” means continuous or the same or in common, etc. Since the limitation “common” connotes several different meanings and the specification fails to clearly set forth the metes and bounds of the term, rejection is proper.

Further it is not seen wherein the metes and bounds of the limitation “essentially” are set forth.

b. There is no adequate description or enabling disclosure of what all is meant and encompassed by the limitation “continuous, single-piece casting” in claim 1.

Although the specification alludes to several methods of sliding form casting, the specification fails to set forth the method of exactly how such is accomplished. Page 9, lines 9+ appears to set forth one such method, however

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it is questioned how and in what manner such is actually accomplished. For example, the Heinzle reference BB from the IDS received 12/23/2004 teaches on, for example, page 2 last paragraph, that according to S.I. A. standards, it takes two to three days for cement to set before the form may be stripped from the concrete. There is no adequate description or enabling disclosure of how and in what manner the instant invention is capable of overcoming such requirements, nor how and in what manner concrete can be continuously supplied over this two to three day period (without solidifying in the device used to supply said concrete), nor how the sliding form is capable of sliding over setting concrete without sticking to said concrete, etc.

According to said page 9 of the specification as filed, it appears applicant's sliding form casting is continuously moving and concrete is continuously supplied such that "the first wall member 2 and the second wall member 11 may both be cast at one go in one single continuous casting process." However it is not seen where such a process is described in a manner that such is actually possible.

5. Claims 1 and 4-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

- a. There is no adequate description or enabling disclosure of what all is meant and encompassed by the limitations "essentially" and "common" for the reasons set forth in section 4a above.
- b. There is no adequate description or enabling disclosure of what all is meant and encompassed by the limitation "continuous, single-piece casting" for the reasons set forth in section 4b above.

6. Claims 1 and 4-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 1 is vague, indefinite and incomplete in what all is meant by and encompassed by the phrase "essentially common cylinder" the limitation common connotes several different meanings and the limitation "essentially" does NOT connote any specific limits, hence the metes and bounds of the claim are undefined. See the discussion of this topic in section 4a above.
- b. Claim 1 is vague, indefinite and incomplete in what all is meant by and encompassed by the phrase "continuous, single-piece casting"; hence the metes and bounds of the claim are undefined. See the discussion of this topic in section 4b above.
- c. Claim 5 is vague, indefinite and incomplete in what all is meant by and encompassed by the phrase "tightening members extend in the second wall member at least in one of the directions about the upper space and along the

upper space" (Underlining added) because it is not seen how and in what manner ONE tightening member may extend BOTH about AND along the upper space, accordingly the metes and bounds of the claim are undefined.

Claim Rejections - 35 USC § 102

7. Claims 1 and 6 to 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kleimola (U.S. 4,050,983) for the reasons set forth in section 7 of the 7/12/2005 Office Action which in turn refers to section 8 of the 1/10/2005 Office Action.

Applicant's arguments on pages 5 and 7 of the remarks received 11/14/2005, that the amendment to claim 1 provides for a structural limitation vice a product-by-process limitation and that Kleimola does not teach or suggest a continuous sliding form casting are NOT persuasive. Applicant's rewording of the limitation "continuous sliding form casting" to "continuous, single piece casting" does NOT change the fact that such is STILL a product-by-process limitation because the limitation "continuous, single piece casting" describes HOW the wall member was formed. As previously indicated in section 7 of the 7/12/2005 Office Action and section 9 of the 1/10/2005 Office action, this limitation is considered to be a product by process limitation, however the patentability of a product does not depend on its method of production. If the product, i.e. the reactor containment, in the product-by-process claim is the same

as the prior art, then the claim is unpatentable, even though the prior art product was made by a different process. **See In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). See also MPEP § 2113.**

Further, as shown in Figures 1 and 2, the walls of Kleimola are indeed a continuous single piece as shown by, for example, the cross hatching of said walls.

8. Claims 1, 6-8, 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,511,102 to Gluntz for the reasons set forth in section 8 of the previous office action mailed 7/12/2005.

As explained in section 7 above, Applicant's rewording of the limitation "continuous sliding form casting" to "continuous, single piece casting" does NOT change the fact that such is STILL a product-by-process limitation because the limitation "continuous, single piece casting" describes HOW the wall member was formed. Furthermore, as shown in Figure 1, the walls of Gluntz are indeed a continuous single piece as shown by, for example, the cross hatching of said walls.

Applicant's arguments regarding the circular cross sectional shape are not persuasive for several reasons.

1. Page 47 of Webster's dictionary defines "annular" as "of or relating to, or forming a ring" and also defines a "ring" on pages 1006-1007 as "a circular

band", "a circlet", "a circular line" etc. Clearly annular does indeed connote the meaning of circular.

2. Even applicant himself admits that "It is known to design the reactor containment with a circular cylindrical cross-section seen in a horizontal section." on page 2 lines 9-11 of the specification as filed.

Thus according to the definition of annular and applicant's own admission of the knowledge within the nuclear art, it is clear that the reactor containment of Gluntz does indeed have a circular cross sectional shape.

Claim Rejections - 35 USC § 103

9. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Kleimola as applied to claims 1, and 6 to 12, or Gluntz as applied to claims 1, 6-8, 10-12 in view of Harstead (U.S. 4,175,005) for the reasons set forth in section 9 of the previous office action mailed 7/12/2005.

10. Claims 1 and 6 to 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleimola (U.S. 4,050,983) as applied to claims 1 and 6 to 12 in view of Heinzle.

Kleimola discloses the claimed invention except for citing for example, that the second wall member of Kleimola is in the slip-form / sliding form of concrete construction. As explained in section 7 above, it is the examiner's position that

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the limitation "continuous sliding form casting" is a product by process claim.

However, as an additional basis for rejection, it is noted that the secondary reference, Heinzle, teaches that it is notoriously old and well known in the large container shaped / circular concrete structure construction art to use slip-forms.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have used slip-forming techniques for constructing internal structure walls to expedite construction work in confined spaces, to avoid the need for scaffolding (see Heinzle translation, page 5, lines 1-5, middle and last paragraph), to minimize material expenditures, to minimize hazards from work at great heights, etc. (See, for example, page 2 last paragraph and page 11 second paragraph)

11. Claims 1, 6-8, 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gluntz (U.S. Patent 5,511,102) as applied to claims 1, 6-8, 10-12 in view of Heinzle.

Gluntz discloses the claimed invention except for citing for example, that the first and second wall members form a continuous, single-piece casting by the use of slip-form / sliding form of concrete construction. As explained in section 7 above, it is the examiner's position that the limitation "continuous sliding form casting" is a product-by-process claim. However, as an additional basis for rejection, it is noted that the secondary reference, Heinzle, teaches that it is

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notoriously old and well known in the large container shaped / circular concrete structure construction art to use slip-forms.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have used slip-forming techniques for constructing internal structure walls to expedite construction work in confined spaces, to avoid the need for scaffolding (see Heinze translation, page 5, lines 1-5, middle and last paragraph), to minimize material expenditures, to minimize hazards from work at great heights, etc. (See, for example, page 2 last paragraph and page 11 second paragraph)

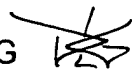
Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene Jr. whose telephone number is (571) 272-6876. The examiner can normally be reached on Mon-Fri 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on (571) 272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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2006-01-19



MATTHEW LUU
PRIMARY EXAMINER